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W.P.No.34440 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.34440 of 2023
and
W.M.P.Nos.34357 & 34359 of 2023

K.Babu

...Petitioner

VS

1. The Chairman,
State Level Scrutiny Committee-III,
Additional secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai,
Secretariat,
Chennai - 600 009.

2. The Director,
Census Operations,
Ministry of Home Affairs,
Government of India,
Rajaji bhavan, E Wing,
IIIrd Floor,
Besant Nagar,
Chennai - 600 090.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorari to call for the records on the file of the 1st



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respondent in Proceedings no.14338/CV6/2014-24 dated 15.11.2023 and quash the same as illegal, arbitrary, without jurisdiction and contrary to law.

For Petitioner : Mrs.V.Srimathi

For Respondents : Mrs.Mythreyechandru
Special Government Pleader for R1
Mrs.Prasad Vijaykumar
SPC for R2

ORDER

(The order of the Court was made by J.Nisha Banu,J.)

Mrs.Mythreyechandru, learned Special Government Pleader takes notice for the 1st respondent. Mr.Prasad Vijayakumar, Senior apnel Counsel takes notice for the 2nd respondent. mBy consent of both parties, the main writ petition is taken up and disposed of at the admission stage itself.

2. This writ petition has been filed challenging the order of the 1st respondent dated 15.11.2023, by which, the State Level Scrutiny Committee have passed an order confiscating the petitioner's community certificate and to take action in accordance with law.

3. i)The case of the petitioner is that he was appointed to the post of Loader in the 2nd respondent department in the year 1998. The appointment for the said position was made in the open category, despite the fact that the petitioner hailing from S.T.community. The petitioner did not claim the



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advantage of any reserved category for his appointment to the said post and it was solely on the basis of merits and that he was selected by the interview committee for the post. The petitioner had registered with the employment exchange under the general category. It is only based on the registration in the Employment Exchange, the 2nd respondent had appointed him to the said post. Even though the petitioner was recruited under the general category, he was called upon to participate in an enquiry by the 2nd respondent vide letter dated 13.12.2022 and the petitioner was also directed to produce his educational qualification and community certificate. The petitioner submitted a detailed representation to the 1st respondent along with requisite documents narrating the facts.

ii) The 2nd respondent issued another summons vide letter dated 27.03.2023. Challenging the same, the petitioner filed W.P.No.11913 of 2023 before this Court, which was disposed of, directing the respondents to verify the community status of the petitioner. When the State Level Scrutiny Committee called the petitioner for enquiry on 03.11.2023, the petitioner was unable to attend the enquiry due to his health issues. However, the 1st respondent have passed an order confiscating his community certificate and to take action in accordance with law. Hence, the present writ petition.



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4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. Admittedly, the petitioner did not participate in the enquiry conducted by the State Level Scrutiny Committee and it was contended by the petitioner that he was having health issues and hence, he could not participate when he was called for enquiry on 03.11.2023. Initially when the petitioner was called for enquiry on 13.12.2022, he did not attend the enquiry. Even thereafter, on 27.03.2023, when the petitioner was called for enquiry, he filed a writ petition in W.P No.11913 of 2023, challenging the said proceedings.

6. Today, when the matter is taken up, the learned counsel for the petitioner would submit that the petitioner did not claim the advantage of any reserved category for his appointment and it was solely on the basis of merits. However, learned counsel for the petitioner would submit that if again, enquiry is conducted, the petitioner is ready to attend the same by producing relevant documents.

7. In view of the above said submission, we are of the view that it would be suffice if an opportunity is given to the petitioner to prove his case. Accordingly, the impugned order dated 15.11.2023 is hereby set aside. The 1st respondent is directed to conduct a fresh enquiry on 21.12.2023 and the



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petitioner is directed to participate in the enquiry to be conducted on 21.12.2023 without fail. The respondent is directed to pass appropriate orders afresh after hearing the petitioner, within a period of two weeks thereafter. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
15.12.2023

vsi

Index : Yes / No

Internet : Yes / No

Note: Issue order copy today

To

1. The Chairman,
State Level Scrutiny Committee-III,
Additional secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Namakkal Kavingnar Maligai,
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and
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